

EXHIBIT A

Robert D. Kline, J. D.

PLAINTIFF

V.

**Pioneer Credit Recovery, Inc. &
Jeffrey W. Mersmann**

DEFENDANTS

) IN THE COURT OF COMMON
) PLEAS, SNYDER COUNTY, PA
) CIVIL ACTION - LAW
) NO. CV – 237- 2017

COPY

FILED

MAY 30 2017

PROTHONOTARY AND CLERK OF COURTS
SNYDER COUNTY

“PLAINTIFF’S COMPLAINT”

Robert D. Kline, J. D. - Plaintiff
2256 Fairview Road
McClure, PA 17841
Telephone 570-658-3448

**Pioneer Credit Recovery, Inc. c/o - Defendant
Corporation Service Company
80 State Street
Albany, NY 12207-2543**

Jeffrey W. Mersmann - Defendant
26 Edward Street
Arcade, NY 14009

Robert D. Kline, J. D. - Plaintiff
2256 Fairview Road
McClure, PA 17841
570-658-3448

Robert D. Kline, J. D.

PLAINTIFF

V.

Pioneer Credit Recovery, Inc. &
Jeffrey W. Mersmann

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PLAINTIFF'S COMPLAINT

FACTS COMMON TO ALL COUNTS

1. Plaintiff, Robert D. Kline, is an adult individual who at all times relevant herein has a residence at 2256 Fairview Road, McClure, PA 17841.

2. Plaintiff, upon information and belief, hereby alleges that at all times mentioned herein Defendant Pioneer Credit Recovery, Inc. has offices located at 26 Edward Street, Arcade, NY 14009.

3. Plaintiff, upon information and belief, hereby alleges that at all times mentioned herein Defendant Jeffrey W. Mersmann has offices located at 26 Edward Street, Arcade, NY 14009.

4. Plaintiff, upon information and belief, hereby alleges that at all times mentioned herein Defendant Pioneer Credit Recovery, Inc. is a "person" as defined by 47 U. S. C. §153(39).

5. Plaintiff believes and therefore avers that Defendants are engaged in, inter alia, offering various plans for tax amnesty by calling prospective clients on their cellular or landline telephone (phone) to make live, robo and prerecorded calls without their written expressed permission or an established business relationship.

6. Such activities are done in violation of 47 U.S.C. 227 et seq. which is commonly known as the Telephone Consumer Protection Act ("TCPA").

7. All initial phone calls placed by Defendants or their agents, subcontractors, employees to Plaintiff utilized an "automatic telephone dialing system" ("ATDS") as defined by 47 U.S.C. §227 (a)(1).

8. Defendants' and/or their agent's ATDS has the capacity to store or produce telephone numbers to be called which uses a random or sequential number generator to make calls in violation of 47 U.S.C. §227 (b)(1)(A) et seq.

9. Plaintiff avers that, since Defendant Jeffrey W. Mersmann supports, supervises and manages the operation of Defendant Pioneer Credit Recovery, Inc. which he knows regularly uses phone solicitation ATDS machines, prerecorded calls as well as other live calls to cell phones all of which he knows or should know are done without permission of the person called, he has engaged in behaviors that illegal under the TCPA. Accordingly, by doing so he has acted outside the scope of his duties and committed or engaged in ultra vires activities that are not protected by the corporate veil of Defendant Pioneer Credit Recovery, Inc. Given the aforementioned activities Plaintiff avers that he assumes direct and vicarious liability in his individual capacity for all illegal

actions that are pleaded in this Complaint.

10. Plaintiff avers that he is not a customer of any of the Defendants, and has never provided any personal information, including his telephone number, to any of the Defendants prior to the initial solicitation call made by them which is referenced and described herein; nor has Plaintiff purchased or used any goods or services offered by the Defendants. Plaintiff further avers that he has never given his expressed written permission for Defendants to call him at any time prior to the filing of this Complaint.

11. When Congress enacted the TCPA, they found, inter alia, that automated calls and prerecorded messages are a "nuisance," and an "invasion of privacy," and that the subscriber may have to pay for each call.

12. Defendants' phone calls constituted calls that were not for emergency purposes as illuminated in 47 U.S.C. §227 et seq.

13. The phone calls described herein which were generated by Defendants and/or their agents to Plaintiff specifically violated 47 U. S. C. §227(b)(1)(A)(iii) and are ATDS telemarketing calls.

COUNT I - VIOLATION OF 47 U.S.C. 227 et seq.

14. Plaintiff incorporates by reference each proceeding and succeeding paragraph as though fully set forth herein.

15. On May 10, 2017 at PM Eastern Standard Time, Plaintiff answered his home phone (570-658-7110) and was provided a prerecorded message. The call was made by Defendants which caused Plaintiff concern relating to his taxes. Accordingly he called 844-727-8283 which was provided by the prerecorded

message and spoke to agent of Defendant who indicated her name was Geraldine. She stated she was working for Defendant Pioneer Credit Recovery, Inc. and offered plans for tax amnesty.

16. Since Defendants' calling the Plaintiff as described under Count I was made without any permission of Plaintiff and was an ATDS/robo call to a phone, Defendants have violated 47 U.S.C. 227 et seq. which entitles the Plaintiff to statutory damages of \$500.00.

17. Defendant had to run to answer the phone and stop his work which caused him injury in fact.

18. Plaintiff believes and therefore avers that Defendants are a sophisticated businesses organization and, since they "knowingly and willfully" engage solicitation practices which are in violation of 47 U.S.C. 227 et seq., Plaintiff is therefore entitled to damages of \$1500.00 as provided by the law referenced herein this paragraph.

WHEREFORE, PLAINTIFF demands judgment against Defendants in the amount of One Thousand Five Hundred Dollars (\$1500.00) plus the costs of this action.

COUNT II – INVASION OF PRIVACY

19. All preceding and succeeding paragraphs are hereby incorporated as though fully pleaded herein.

20. Defendants and/or their agents have called Plaintiff at times in addition to those referenced in Count I.

21. Defendants, in their wanton quests to make money, do not have an opt

out mechanism or an "in house" do not call list which are both violations of Federal law.

22. Defendants and/or their agents are a sophisticated telemarketing organization that acts volitionally, breaks the law and plays the odds of getting caught, ignores the rights of the Plaintiff and seems to be undeterred despite having been in violation of the law in numerous ways.

23. Given the averments pleaded in this suit as well as others, Plaintiff considers the methods of conducting business and actions of the Defendants that are described herein to be an invasion of privacy as they are outrageous and highly offensive which caused the Plaintiff anxiety, mental distress as well as loss of joy of life.

24. Defendants and/or their agents, manifest invasion of privacy by engaging in the behaviors and activities described herein especially in light of the obvious efforts the Plaintiff has made to protect his phone privacy by being on the Federal "do not call" registry and have thereby manifested intentional, wanton, reckless conduct that exceeds the limits of gross negligence which would absolutely be highly offensive to a reasonable person and the public at large.

25. The late US Senator, Earnest Hollings, has stated that, "computerized telephone calls are the scourge of modern civilization. They wake us up in the morning; they interrupt our dinner at night; they force the sick and elderly out of bed; they hound us until we want to rip the telephone right out of the wall. These machines are out of control, and their use is growing by 30% every year. It is telephone terrorism, and it has got to stop".

26. Congress has determined the actions of telemarketers to be an invasion of privacy.

WHEREFORE Plaintiff demands judgment against Defendant in the amount of Three thousand five hundred dollars (\$3500.00) plus the costs of this action.

Respectfully submitted,



Robert D. Kline, J. D.
2256 Fairview Road
McClure, PA 17841
Plaintiff pro se
570-658-3448

VERIFICATION

The undersigned verifies that the statements he made in the foregoing Plaintiff's Complaint are true and correct to the best of his knowledge, information and belief and he understands that statements made there are subject penalties of 18 Pa. C. S. A. § 4904 relating to unsworn falsification to authorities.



Robert D. Kline, J. D. - Plaintiff
2256 Fairview Road
McClure, PA 17841
570-658-3448

May 31, 2017

CERTIFICATE OF SERVICE

On May 31, 2017 the Plaintiff has caused a copy of Plaintiff's Complaint to be served on the defendants listed below by US Mail, postage paid addressed as follows:

Pioneer Credit Recovery, Inc. c/o - Defendant
Corporation Service Company
80 State Street
Albany, NY 12207-2543

Jeffrey W. Mersmann - Defendant
26 Edward Street
Arcade, NY 14009



Robert D. Kline, J. D. - Plaintiff
2256 Fairview Road
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